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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST:

DEBRA A. ZWIER,
RESPONDENT

FINAL DECISION AND ORDER
LS0111145MED

Division of Enforcement Investigative File #00 MED 130

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Debra A. Zwier
500 Linden Street #107
Reno, NV 89502

Medical Examining Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Medical Examining Board (hereinafter the "Board"). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Debra A. Zwier, (DOB 06-16-52) ("Respondent") is and was, at all times relevant to the facts set forth herein, a Respiratory Care Practitioner duly licensed in the state of Wisconsin, pursuant to certificate #28-1532, first granted on March 25, 1993.
2. From November 1996 through May 1988, Respondent was engaged in the practice of Respiratory Care at St. James Community Hospital in Butte, Montana. At the time of her employment, Respondent was a licensed Respiratory Care Practitioner in the state of Montana.
3. St. James Community Hospital terminated respondent from employment in May 1998 for patient neglect and falsification of records. Prior to her termination, Respondent had been reported for numerous of incidents of unprofessional conduct and had been counseled and placed on a disciplinary track by her employer for previous infractions.
4. On May 15, 1998, Linda Cox, the Director of Clinical Services at St. James Community Hospital, contacted the State of Montana Board of Respiratory Care and notified the Board of Respondent's termination and professional misconduct.

5. On March 2, 1999, Respondent's license was revoked in a default proceeding, pursuant to a Final Order entered by the Montana Board of Respiratory Care Practitioners. A true and correct copy of the Montana Final Order is attached and incorporated herein as **State's Exhibit 1**.

6. The revocation of Respondent's license was based upon the findings contained in the Notice of Suspension and Opportunity for Hearing prepared by the Montana Board of Respiratory Care Practitioners. A true and correct copy of the Notice of Suspension and Opportunity for Hearing is attached and incorporated herein as **State's Exhibit 2**.

7. In the Montana proceedings, Respondent was found to have failed to set up oximeters, failed to respond to pages and Code situations, failed to complete patient chartings, and to have falsified a patient's medical charting regarding respiratory care therapy. A detailed description of the incidents is set forth in the Final Investigative Summary Report prepared by the Montana Department of Commerce, Professional and Occupational Licensing Division.

8. On March 8, 2001, Respondent's license to practice Respiratory Care was reinstated and placed on probation status, pursuant to the terms of a Notice of Conditional Reinstatement of License. A true and correct copy of the Notice of Reinstatement is attached and incorporated herein as **State's Exhibit 3**.

9. Respondent is currently employed as a Respiratory Therapist in Reno, Nevada, which does not require licensure. Respondent maintains that she is compliance with the probationary terms of the Montana order.

CONCLUSIONS OF LAW

10. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to sec. 448.02(3), Stats. and is authorized to enter into the attached Stipulation and Order, pursuant to sec. 227.44(5), Stats.

11. The conduct described in paragraph 5 above constitutes unprofessional conduct within the meaning of Wis. Admin. Code § Med 10.02 (2)(q).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

The Wisconsin Respiratory Care Practitioner's Certificate of Debra Zwier is LIMITED as set forth in §448.02(3)(e), Wis. Stats., and as follows:

A) Respondent shall not engage in the practice of Respiratory Care in the State of Wisconsin until such time as she has submitted acceptable proof to the Wisconsin Medical Examining Board (hereinafter "Board") that she has fulfilled all conditions imposed upon her by the State of Montana Board of Respiratory Care Practitioners, pursuant to the *Notice of Conditional Reinstatement of License*, issued on March 8, 2001. Acceptable proof of Respondent's satisfactory compliance shall include the following:

- 1) Respondent shall provide copies of the quarterly work reports from her supervising employer.
- 2) Respondent shall provide written verification from the provider that she had completed the required continuing education.
- 3) Respondent shall provide written verification from the Montana Board of Respiratory Care Practitioners that she has successfully completed the terms of the disciplinary order and that her license in Montana is fully and unconditionally restored with no limitations.
- 4) Respondent shall provide notice if she violates any of the conditions of the Montana Order. Notice shall be provided to the Board within five (5) days of the occurrence of the violation.

B) Upon acceptable proof that she has fulfilled the terms of the Montana Order, Respondent may petition the Board to remove the limitations placed upon her certificate in Wisconsin. In conjunction with the review of such petition, the Board may, at its option, require Respondent to make a personal appearance before the Board to answer any questions that it may have concerning this matter.

C) Prior to completion of the reinstatement conditions under the Montana Order, if Respondent intends to return to Wisconsin to engage in the practice of Respiratory Care, she shall be subject to the following requirements:

- 1) Respondent shall provide written notice of her intent to commence practice in Wisconsin at least thirty (30) days prior to her actual commencement of practice. Upon receipt of such notice, the Board may, in the exercise of its discretion, require one or more professional competency or mental health examination(s) to evaluate Respondent's ability to practice in a competent and safe manner, and may

restrict or deny Respondent's request to practice in Wisconsin based upon the results of the evaluations. In addition, the Board may require a personal appearance by Respondent to answer any questions the members may have in conjunction with Respondent's notice of intent to practice.

2) Respondent shall practice only in settings where she works under the direct supervision of a licensed health care professional. The supervision plan must be submitted to and approved by the Board. Respondent must provide quarterly work reports to the Board from her supervisor indicating whether Respondent is abiding by all applicable laws, rule and regulations and professional conduct. Respondent shall report to the Board any change of employment status, residence, address or telephone number within ten (10) days of the date of such change and indicate the reason for the change in her employment.

3) Respondent shall receive psychological counseling to address issues relating to interpersonal communication with staff, management and patients in a hospital setting, personal judgment, anger management and appropriate conduct in a work setting. Respondent's counselor must be provided a copy of the Wisconsin Board Order and exhibits referenced therein. Respondent's counseling shall consist of no less than one (1) hour sessions on a bi-weekly basis. The counselor selected by Respondent to provide therapy shall be pre-approved by the Board. Respondent shall be required to provide quarterly progress reports to the Board from her counselor. The reports must be provided by the fifteenth (15) day of the month following the last month of that quarter. Respondent may petition the Board to modify the counseling requirement, based upon a submission of proof from her counselor that Respondent has progressed sufficiently to warrant such modification.

4) Respondent shall complete twelve (12) credits of continuing education. The required education shall include at least six (6) credits in ethics and judgment in a clinical situation. All courses shall be submitted to and pre-approved by the Board.

5) Respondent's certificate shall remain subject to the conditions described in the above paragraphs #1-4, for a period not to exceed two (2) years beginning upon the date of Respondent's notification of her intent to commence practice in Wisconsin. The Board may, in its discretion, give Respondent credit for the time period that she has successfully fulfilled the requirements imposed under the Montana order, and thereby modify the length or terms of the limitations on Respondent's Certificate during her practice in Wisconsin.

6) The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including coordinating all requests for approval of education. The Department Monitor may be reached as follows:

Department Monitor

Division of Enforcement

PO Box 8935

Madison, WI 53708-8935

FAX (608) 266-2264

TEL. (608) 261-7938

In the event that Respondent fails to timely comply with the requirements set forth in the paragraphs above, her Wisconsin certification to practice as a Respiratory Care Practitioner shall be **SUSPENDED**, without further notice or hearing, until she has complied with the terms of this Order. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's certification pursuant to the procedures set forth in 448.02(4) Wis. Stats. and Wis. Admin. Code RL Ch. 6. The Board in its discretion may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

MEDICAL EXAMINING BOARD

By: Sidney Johnson

11-14-01

On behalf of the Board

Date

